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PATENT
Attorney Docket No. 401256

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of:

GOTOU et al.

Art Unit: 2817

Application No. 09/881,665

Examiner: H. Choe

Filed: June 18, 2001

For: HIGH FREQUENCY POWER AMPLIFIER

PETITION FOR ENTRY OF AMENDMENT AFTER FINAL REJECTION

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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TECHNOLOGY CENTER 2800

Dear Sir:

Applicants petition pursuant to 37 CFR 1.181 for entry of the Amendment After Final Rejection filed July 25, 2003 in the referenced patent application.

Initially, Applicants point out that it is not apparent that entry of the Amendment filed July 25, 2003 has been refused. Two Advisory Actions were issued in response to the Amendment filed July 25, 2003. In the first of those Advisory Actions, mailed October 8, 2003, the Examiner indicated that the Amendment would not be entered. Upon further consideration, a second Advisory Action was sent by facsimile to the undersigned on October 15, 2003. That Advisory Action, which presumably trumped the earlier Advisory Action, included no statement as to whether the Amendment would be entered.

Because the Amendment filed July 25, 2003 presented amended claims that were identical to claims that were already pending, although with different numbers, and cancelled the identical claims, the Examiner was compelled, pursuant to 37 CFR 1.116, to enter the Amendment. If the Amendment has not been entered, the Examiner should now be instructed to enter the Amendment.

The claims of interest in the patent application are claims 5-8. These claims were all pending at the time the Amendment After Final Rejection was filed. In that Amendment, claims 6 and 7 were cancelled and the limitation of claim 6, a claim that depended from claim 5, was added to claim 5. Claim 8 depended from claim 5. Thus, it might appear that the Amendment introduced a new issue because amended claim 8 included an additional limitation as compared to the previous claim 8. However, claim 7 included the same limitation as amended claim 8, but had depended from claim 6. Thus, upon the presentation of claims 5 and 8 as amended in the

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Amendment filed July 25, 2003, essentially the previously pending claim 6 and 7, which were simultaneously cancelled, were re-presented as amended claims 5 and 8. The effect of this amendment was the same as if claim 6 had been rewritten in independent form as claim 6 and claim 7 had been retained while claims 5 and 8 were cancelled. That step was not taken because it was mechanically simpler to amend claim 5 than to amend claim 6.

The foregoing situation was explained as succinctly as possible in the third paragraph of the remarks accompanying the Amendment of July 25, 2003.

In this Amendment it is proposed to rewrite claim 6 in independent form as amended claim 5. Claim 8 is left pending as well. The combination of limitations presented by claim 5 upon entry of the Amendment is identical to previously amended claim 6. The limitation added by claim 8 makes that claim identical to former claim 7. Therefore, no new issues can be raised by claims 5 and 8 as now presented.

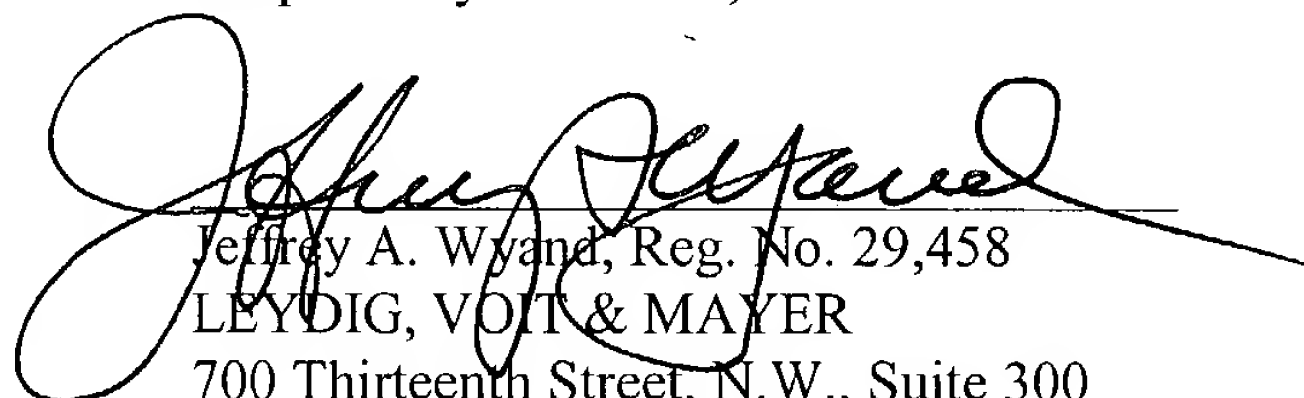
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Notwithstanding the explanation of the situation and the presentation of claims that were identical, not substantially similar to but identical, to previously pending claims cannot have raised a new issue and the Examiner cannot have properly refused to enter the Amendment filed July 25, 2003. Therefore, if that Amendment has not been entered, the Amendment should be entered now so that the Appeal of the rejection of claims 5 and 8 can proceed properly.

Respectfully submitted,


Jeffrey A. Wyand, Reg. No. 29,458
LEYDIG, VOIT & MAYER
700 Thirteenth Street, N.W., Suite 300
Washington, DC 20005-3960
(202) 737-6770 (telephone)
(202) 737-6776 (facsimile)

Date:

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